IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1366/2006
(Dharam Pal Vs. State of Rajasthan)

Date of Order : 15/11/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Rakesh Matoria for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

By the instant criminal misc petition under Section 482 Cr.P.C., the petitioner through his father, who is minor child of 11 years of age, has challenged the order dated 4.2.2006 taking cognizance passed by Additional Chief Judicial Magistrate, Nohar (for short 'the trial court' hereinafter).

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the order impugned and the material available on record.

It appears that on the Parcha Bayan of petitioner, the police registered a crime report for the offence under Section 328 IPC. At the relevant time, the petitioner was hospitalized. However, after investigation, the police filed a negative final report which was accepted by the trial court and police also filed

a complaint under Section 182 I.P.C. against the petitioner. From the material on record, it appears that on the relevant date of occurrence, petitioner Dharam Pal was minor of 11 years of age.

Section 83 IPC deals with the act of a child above seven years and under 12 years of immature understanding and provides that nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

Keeping in view the provisions of Section 83 IPC as also even on merit, on perusal of the complaint filed by the police under Section 182 I.P.C., in my view, there is no ground to proceed against the present petitioner and the order taking cognizance as also the proceeding initiated against the petitioner deserve to be quashed.

In the result, the criminal misc. petition is allowed. The order impugned dated 4.2.2006 passed by the trial court is hereby set aside. The criminal proceeding in Criminal Case No.86/06 against the present petitioner stands quashed.

(H.R.PANWAR),J.

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